IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE SIDE

CRIMINAL APPLICATION NO. 2133 OF 2007

Mr.Tanveer Kayyum Ansari. ... Applicant.

V/s.

The State of Maharashtra. ... Respondent.

Subodh Desai for the applicant.

U.V.Nikam, APP for the State.

WITH

CRIMINAL APPLICATION NO. 2161 OF 2007

Amanulla @ Kayyam Ahmed
Rafic Ansari. ... Applicant.

V/s.

The State of Maharashtra. ... Respondent.

Ms.P.P.Tendulkar for the applicant.

U.V.Nikam, APP for the State.

CORAM: V.C.DAGA, J.

DATED: 17th July 2007.

P.C.:

. Heard learned counsel for both the applicants and learned A.P.P. for the State.

. Perused applications.

2. The applicants, who are accused in C.R.No.270/2006 registered with Khadak Police Station, Pune for the offences punishable under sections 307,

506(2) read with section 34 of Indian Penal Code, section 37(1) read with section 135 of the Bombay Police Act and section 4(25) of the Arms Act, seek to be released on bail.

3. The F.I.R. lodged by Asif Abdul Rehman Shaikh, who is brother of injured Rais, reveals that on 20th November, 2006, complainant along with his brothers and others were present and were chit chatting in front of Bismilla Hotel. At that time, all the four accused persons, armed with swords, chopper, came there and accused No.1 Kayyum and accused No.2 Tanvir assaulted Rais with sword and chopper and caused serious injuries on his head and other parts of the body. While warding of an attack, said Rais also lost his fingers. It is alleged that at the time of the said incident, accused Nos.3 and 4, who were also holding sword and chopper respectively uttered that "Rais should not be left and should be finished." As per prosecution Shaikh Rais had suffered contused lacerated wound on occipital region, size 5 cm. long, 0.5 mm deep. There were injuries on his left hand fingers and little finger was amputated. After some treatment, he was discharged on 3rd or 4th day from the hospital.

4. It is also sought to be alleged that in view

of the earlier decision taken to close the stall around the campus of Mosque, during the month of Ramjan, after specified time there was some dispute going on between complainant on one hand and accused No.1- Kayyum Ansari and accused No.2- Tanvir (present applicants) on the other hand.

5. From the factual matrix noted above, it is clear that present applicant attacked said rais with sword and chopper and caused him some injuries including grievous hurt to the little finger of the left hand.

6. After hearing learned counsel for both the applicants, I was not inclined to grant bail to these applicants since there is possibility of tampering with the evidence and creating terror in the locality.

7. In order to get over this argument, the submission came from the learned counsel appearing for the applicants that if the bail is granted, then both the applicants shall not enter into the limits of Municipal Corporation, Pune.

8. The learned A.P.P., while reacting to this submission submits that even if this condition is put, normal experience is that after sometime the accused persons apply for relaxation of such conditions and then purpose of putting such condition itself is lost.

9. While reacting to the above submission, the learned counsel for the applicants undertook not to move for relaxation of this condition in any circumstances unless the trial is complete.

10. Considering the above submissions, I am inclined to grant bail, subject to following conditions:

(a) The applicants, arrested in connection with C.R.No.270/2006 registered with the Khadak Police Station, Pune shall be enlarged on bail in the sum of Rs.50,000/- each with one or two local sureties to make up the said amount.

(b) The applicants shall not enter into the limits of Municipal Corporation, Pune

unless the trial is complete except for attending Court during, that too on the particular day of trial and shall leave the area, immediately, after court hours.

(c) Both applicants undertake to stay at Shivapur, taluka- Haveli, district- Pune. They are directed to report the Shivapur Police Station every day between 3.00 to 5.00 p.m. till conclusion of the trial except on the day of trial.

(d) The order of bail will be given effect only after the applicants furnish to the investigating officer the details about their place of residence and address where they propose to stay after they are enlarged on bail. The applicants will not change their residential address thereafter till the conclusion of trial without prior intimation to the investigating officer. The police officer shall be free to randomly check the presence of the applicants even in the midnight during night patrolling.

(d) The applicants shall not directly or indirectly, make any inducement or threat or pressurise any prosecution witnesses and shall not in any manner tamper with the prosecution evidence.

(e) The applicants shall co-operate with the investigating agency for disposal of the case. It is needless to mention that breach of any of the conditions by the applicants shall result in cancellation of bail.

3. Both applications stand disposed of accordingly.

JUDGE